

# HOUSE BILL No. 1134

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 16-18-2; IC 16-21; IC 16-25-4.5-1; IC 16-31-6.5-2; IC 16-34; IC 16-41-16; IC 16-50; IC 22-9-1-3; IC 23-14-31-39; IC 25-22.5-2-8; IC 25-36.1-2-1; IC 27-8; IC 27-13-7-7.5; IC 31-39; IC 34-23-2-1; IC 35-31.5-2; IC 35-42; IC 35-50-2-9; IC 35-52-16.

**Synopsis:** Protection of life. Repeals the statutes authorizing and regulating abortion. Finds that human physical life begins when a human ovum is fertilized by a human sperm. Asserts a compelling state interest in protecting human physical life from the moment that human physical life begins. Redefines "human being" for purposes of the criminal code to conform to the finding that human physical life begins when a human ovum is fertilized by a human sperm. Makes other conforming changes.

**Effective:** July 1, 2017.

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January 9, 2017, read first time and referred to Committee on Public Policy.

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First Regular Session of the 120th General Assembly (2017)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2016 Regular Session of the General Assembly.

## HOUSE BILL No. 1134

A BILL FOR AN ACT to amend the Indiana Code concerning health.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 16-18-2-1.5 IS REPEALED [EFFECTIVE JULY  
2       1, 2017]. Sec. 1.5: (a) "Abortion clinic", for purposes of IC 16-19-3-31,  
3       IC 16-21-2, IC 16-34-3, and IC 16-41-16, means a health care provider  
4       (as defined in section 163(d)(1) of this chapter) that:

- 5               (1) performs surgical abortion procedures; or  
6               (2) beginning January 1, 2014, provides an abortion inducing  
7               drug for the purpose of inducing an abortion.

8       (b) The term does not include the following:

- 9               (1) A hospital that is licensed as a hospital under IC 16-21-2.  
10              (2) An ambulatory outpatient surgical center that is licensed as an  
11              ambulatory outpatient surgical center under IC 16-21-2.  
12              (3) A health care provider that provides, prescribes, administers,  
13              or dispenses an abortion inducing drug to fewer than five (5)  
14              patients per year for the purposes of inducing an abortion.

15       SECTION 2. IC 16-18-2-18.5 IS REPEALED [EFFECTIVE JULY  
16       1, 2017]. Sec. 18.5: "Any other disability", for purposes of IC 16-34-  
17       has the meaning set forth in IC 16-34-4-1.



SECTION 3. IC 16-18-2-69, AS AMENDED BY P.L.164-2013, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 69. (a) "Consent", for purposes of IC 16-34, means a written agreement to submit to an abortion:

(1) after the consenting party has had a full explanation of the abortion procedure to be performed, including disclosures and information required by IC 16-34-2-1.1; and

(2) as evidenced by the signature of the consenting party on a consent form prescribed by the state department of health.

(b) "Consent", for purposes of IC 16-36-6, has the meaning set forth in IC 16-36-6-1.

SECTION 4. IC 16-18-2-100.5 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 100.5: "Down syndrome", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-2.

SECTION 5. IC 16-18-2-128.3 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 128.3: "Fertilization", for purposes of IC 16-34, means the fusion of a human spermatozoon with a human ovum.

SECTION 6. IC 16-18-2-128.7, AS AMENDED BY P.L.213-2016, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 128.7. "Fetus", for purposes of IC 16-34 and IC 16-41-16, means an unborn child, irrespective of gestational age or the duration of the pregnancy.

SECTION 7. IC 16-18-2-161, AS AMENDED BY P.L.113-2015, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 161. (a) "Health care facility" includes:

(1) hospitals licensed under IC 16-21-2, private mental health institutions licensed under IC 12-25, and tuberculosis hospitals established under IC 16-11-1 (before its repeal);

(2) health facilities licensed under IC 16-28; and

(3) rehabilitation facilities and kidney disease treatment centers.

(b) "Health care facility", for purposes of IC 16-21-11, and IC 16-34-3, has the meaning set forth in IC 16-21-11-1.

(c) "Health care facility", for purposes of IC 16-28-13, has the meaning set forth in IC 16-28-13-0.5.

SECTION 8. IC 16-18-2-163, AS AMENDED BY P.L.117-2015, SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 163. (a) "Health care provider", for purposes of IC 16-21 and IC 16-41, means any of the following:

(1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or legally authorized by this state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital,



a health facility, an emergency ambulance service (IC 16-31-3), a dentist, a registered or licensed practical nurse, a midwife, an optometrist, a pharmacist, a podiatrist, a chiropractor, a physical therapist, a respiratory care practitioner, an occupational therapist, a psychologist, a paramedic, an emergency medical technician, an advanced emergency medical technician, an athletic trainer, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.

(2) A college, university, or junior college that provides health care to a student, a faculty member, or an employee, and the governing board or a person who is an officer, employee, or agent of the college, university, or junior college acting in the course and scope of the person's employment.

(3) A blood bank, community mental health center, community intellectual disability center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-36-5 and IC 16-36-6, means an individual licensed or authorized by this state to provide health care or professional services as:

(1) a licensed physician;



- (2) a registered nurse;
- (3) a licensed practical nurse;
- (4) an advanced practice nurse;
- (5) a certified nurse midwife;
- (6) a paramedic;
- (7) an emergency medical technician;
- (8) an advanced emergency medical technician; or
- (9) an emergency medical responder, as defined by section 109.8 of this chapter.

The term includes an individual who is an employee or agent of a health care provider acting in the course and scope of the individual's employment.

(d) "Health care provider", for purposes of ~~section 1-5 of this chapter~~ and IC 16-40-4, means any of the following:

- (1) An individual, a partnership, a corporation, a professional corporation, a facility, or an institution licensed or authorized by the state to provide health care or professional services as a licensed physician, a psychiatric hospital, a hospital, a health facility, an emergency ambulance service (IC 16-31-3), an ambulatory outpatient surgical center, a dentist, an optometrist, a pharmacist, a podiatrist, a chiropractor, a psychologist, or a person who is an officer, employee, or agent of the individual, partnership, corporation, professional corporation, facility, or institution acting in the course and scope of the person's employment.
- (2) A blood bank, laboratory, community mental health center, community intellectual disability center, community health center, or migrant health center.
- (3) A home health agency (as defined in IC 16-27-1-2).
- (4) A health maintenance organization (as defined in IC 27-13-1-19).
- (5) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).
- (6) A corporation, partnership, or professional corporation not otherwise specified in this subsection that:
  - (A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;
  - (B) is organized or registered under state law; and
  - (C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.
- (7) A person that is designated to maintain the records of a person



described in subdivisions (1) through (6).

(e) "Health care provider", for purposes of IC 16-45-4, has the meaning set forth in 47 CFR 54.601(a).

SECTION 9. IC 16-18-2-179, AS AMENDED BY P.L.99-2007, SECTION 154, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 179. (a) "Hospital", except as provided in subsections (b) through ~~(g)~~; **(f)**, means a hospital that is licensed under IC 16-21-2.

(b) "Hospital", for purposes of IC 16-21, means an institution, a place, a building, or an agency that holds out to the general public that it is operated for hospital purposes and that it provides care, accommodations, facilities, and equipment, in connection with the services of a physician, to individuals who may need medical or surgical services. The term does not include the following:

(1) Freestanding health facilities.

(2) Hospitals or institutions specifically intended to diagnose, care, and treat the following:

(A) Individuals with a mental illness (as defined in IC 12-7-2-117.6).

(B) Individuals with developmental disabilities (as defined in IC 12-7-2-61).

(3) Offices of physicians where patients are not regularly kept as bed patients.

(4) Convalescent homes, boarding homes, or homes for the aged.

(c) "Hospital", for purposes of IC 16-22-8, has the meaning set forth in IC 16-22-8-5.

(d) "Hospital", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-9.

(e) "Hospital" or "tuberculosis hospital", for purposes of IC 16-24, means an institution or a facility for the treatment of individuals with tuberculosis.

~~(f) "Hospital", for purposes of IC 16-34, means a hospital (as defined in subsection (b)) that:~~

~~(1) is required to be licensed under IC 16-21-2; or~~

~~(2) is operated by an agency of the United States.~~

~~(g)~~ **(f)** "Hospital", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-6.

SECTION 10. IC 16-18-2-201.5, AS ADDED BY P.L.213-2016, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 201.5. "Lethal fetal anomaly", for purposes of IC 16-25-4.5, ~~and IC 16-34~~, has the meaning set forth in IC 16-25-4.5-2.



SECTION 11. IC 16-18-2-223.5 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 223.5: "Medical emergency", for purposes of IC 16-34, means a condition that, on the basis of the attending physician's good faith clinical judgment, complicates the medical condition of a pregnant woman so that it necessitates the immediate termination of her pregnancy to avert her death or for which a delay would create serious risk of substantial and irreversible impairment of a major bodily function.

SECTION 12. IC 16-18-2-254.2 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 254.2: "Objective scientific information", for purposes of IC 16-34, means data that have been reasonably derived from scientific literature and verified or supported by research in compliance with scientific methods.

SECTION 13. IC 16-18-2-267 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 267: "Parental consent", for purposes of IC 16-34, means the written consent of the parent or legal guardian of an unemancipated pregnant woman less than eighteen (18) years of age to the performance of an abortion on the minor pregnant woman.

SECTION 14. IC 16-18-2-267.5 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 267.5: "Partial birth abortion" means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

SECTION 15. IC 16-18-2-273.5, AS ADDED BY P.L.213-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 273.5. "Perinatal hospice", for purposes of IC 16-25-4.5, and IC 16-34, has the meaning set forth in IC 16-25-4.5-3.

SECTION 16. IC 16-18-2-287.5 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 287.5: "Postfertilization age", for purposes of IC 16-34, means the age of the fetus calculated from the date of the fertilization of the ovum.

SECTION 17. IC 16-18-2-287.9 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 287.9: "Potential diagnosis", for purposes of IC 16-34, has the meaning set forth in IC 16-34-4-3.

SECTION 18. IC 16-18-2-293.5 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 293.5: "Probable gestational age of the fetus", for purposes of IC 16-34, means what, in the judgment of the attending physician, will with reasonable probability be the gestational age of the fetus at the time an abortion is planned to be performed.

SECTION 19. IC 16-18-2-328.6 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 328.6: "Sex selective abortion", for purposes of IC 16-34-4, has the meaning set forth in IC 16-34-4-4.



SECTION 20. IC 16-18-2-355 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 355: "Trimester", for purposes of IC 16-34, means any one (1) of three (3) equal periods of time of normal gestation period of a pregnant woman derived by dividing the period of gestation into three (3) equal parts of three (3) months each and to be designated as the first trimester, second trimester, and the third trimester, respectively.

SECTION 21. IC 16-18-2-365 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 365: "Viability", for purposes of IC 16-34, means the ability of a fetus to live outside the mother's womb.

SECTION 22. IC 16-21-1-7, AS AMENDED BY P.L.141-2014, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 7. The executive board may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of patients, including the following:

(1) Rules pertaining to the operation and management of hospitals, ambulatory outpatient surgical centers, ~~abortion clinics~~, and birthing centers.

(2) Rules establishing standards for equipment, facilities, and staffing required for efficient and quality care of patients.

SECTION 23. IC 16-21-2-1, AS AMENDED BY P.L.96-2005, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to all hospitals, ambulatory outpatient surgical centers, ~~abortion clinics~~, and birthing centers.

(b) This chapter does not apply to a hospital operated by the federal government.

(c) This chapter does not affect a statute pertaining to the placement and adoption of children.

SECTION 24. IC 16-21-2-2, AS AMENDED BY P.L.96-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2. The state department shall license and regulate:

(1) hospitals;

(2) ambulatory outpatient surgical centers; **and**

(3) birthing centers. **and**

~~(4) abortion clinics.~~

SECTION 25. IC 16-21-2-2.5, AS AMENDED BY P.L.92-2015, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to do the following concerning birthing centers: **and** ~~abortion clinics~~:

(1) Establish minimum license qualifications.

(2) Establish the following requirements:





- 1 (A) Sanitation standards.
- 2 (B) Staff qualifications.
- 3 (C) Necessary emergency equipment.
- 4 (D) Procedures to provide emergency care.
- 5 (E) Quality assurance standards.
- 6 (F) Infection control.
- 7 (3) Prescribe the operating policies, supervision, and maintenance
- 8 of medical records.
- 9 (4) Establish procedures for the issuance, renewal, denial, and
- 10 revocation of licenses under this chapter. The rules adopted under
- 11 this subsection must address the following:
- 12 (A) The form and content of the license.
- 13 (B) The collection of an annual license fee.
- 14 (5) Prescribe the procedures and standards for inspections.
- 15 (b) A person who knowingly or intentionally:
- 16 (1) operates a birthing center ~~or an abortion clinic~~ that is not
- 17 licensed under this chapter; or
- 18 (2) advertises the operation of a birthing center ~~or an abortion~~
- 19 ~~clinic~~ that is not licensed under this chapter;
- 20 commits a Class A misdemeanor.
- 21 SECTION 26. IC 16-21-2-2.6 IS REPEALED [EFFECTIVE JULY
- 22 1, 2017]. ~~Sec. 2-6: The state department may inspect an abortion clinic~~
- 23 ~~at least one (1) time per calendar year and may conduct a complaint~~
- 24 ~~inspection as needed.~~
- 25 SECTION 27. IC 16-21-2-10, AS AMENDED BY P.L.96-2005,
- 26 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 27 JULY 1, 2017]: Sec. 10. A:
- 28 (1) person;
- 29 (2) state, county, or local governmental unit; or
- 30 (3) division, a department, a board, or an agency of a state,
- 31 county, or local governmental unit;
- 32 must obtain a license from the state health commissioner under
- 33 IC 4-21.5-3-5 before establishing, conducting, operating, or
- 34 maintaining a hospital, an ambulatory outpatient surgical center, ~~an~~
- 35 ~~abortion clinic~~, or a birthing center.
- 36 SECTION 28. IC 16-21-2-11, AS AMENDED BY P.L.172-2011,
- 37 SECTION 114, IS AMENDED TO READ AS FOLLOWS
- 38 [EFFECTIVE JULY 1, 2017]: Sec. 11. (a) An applicant must submit
- 39 an application for a license on a form prepared by the state department
- 40 showing that:
- 41 (1) the applicant is of reputable and responsible character;
- 42 (2) the applicant is able to comply with the minimum standards



for a hospital, an ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing center, and with rules adopted under this chapter; and

(3) the applicant has complied with section 15.4 of this chapter.

(b) The application must contain the following additional information:

(1) The name of the applicant.

(2) The type of institution to be operated.

(3) The location of the institution.

(4) The name of the person to be in charge of the institution.

(5) If the applicant is a hospital, the range and types of services to be provided under the general hospital license, including any service that would otherwise require licensure by the state department under the authority of IC 16-19.

(6) Other information the state department requires.

(c) If the department of state revenue notifies the department that a person is on the most recent tax warrant list, the department shall not issue or renew the person's license until:

(1) the person provides to the department a statement from the department of state revenue that the person's tax warrant has been satisfied; or

(2) the department receives a notice from the commissioner of the department of state revenue under IC 6-8.1-8-2(k).

SECTION 29. IC 16-21-2-14, AS AMENDED BY P.L.197-2011, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 14. A license to operate a hospital, an ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing center:

(1) expires one (1) year after the date of issuance;

(2) is not assignable or transferable;

(3) is issued only for the premises named in the application;

(4) must be posted in a conspicuous place in the facility; and

(5) may be renewed each year upon the payment of a renewal fee at the rate adopted by the state department under IC 4-22-2.

SECTION 30. IC 16-21-2-16, AS AMENDED BY P.L.96-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 16. A hospital, an ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing center that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.



1 SECTION 31. IC 16-25-4.5-1 IS REPEALED [EFFECTIVE JULY  
2 1, 2017]. Sec. 1. The purpose of this chapter is to ensure that:

- 3 (1) ~~women considering abortion after receiving a diagnosis of a~~  
4 ~~lethal fetal anomaly are informed of the availability of perinatal~~  
5 ~~hospice care; and~~
- 6 (2) ~~women choosing abortion after receiving a diagnosis of a~~  
7 ~~lethal fetal anomaly are making a fully informed decision.~~

8 SECTION 32. IC 16-31-6.5-2, AS AMENDED BY P.L.96-2005,  
9 SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
10 JULY 1, 2017]: Sec. 2. This chapter does not apply to the following:

- 11 (1) A licensed physician.
- 12 (2) A hospital, an ambulatory outpatient surgical center, ~~an~~  
13 ~~abortion clinic~~, or a birthing center.
- 14 (3) A person providing health care in a hospital, an ambulatory  
15 outpatient surgical center, ~~an abortion clinic~~, or a birthing center  
16 licensed under IC 16-21.
- 17 (4) A person or entity certified under IC 16-31-3.

18 SECTION 33. IC 16-34 IS REPEALED [EFFECTIVE JULY 1,  
19 2017]. (Abortion).

20 SECTION 34. IC 16-41-16-1, AS AMENDED BY P.L.213-2016,  
21 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
22 JULY 1, 2017]: Sec. 1. (a) This chapter applies to persons and facilities  
23 that handle infectious waste, including the following:

- 24 (1) Hospitals.
- 25 (2) Ambulatory surgical facilities.
- 26 (3) Medical laboratories.
- 27 (4) Diagnostic laboratories.
- 28 (5) Blood centers.
- 29 (6) Pharmaceutical companies.
- 30 (7) Academic research laboratories.
- 31 (8) Industrial research laboratories.
- 32 (9) Health facilities.
- 33 (10) Offices of health care providers.
- 34 (11) Diet or health care clinics.
- 35 (12) Offices of veterinarians.
- 36 (13) Veterinary hospitals.
- 37 (14) Emergency medical services providers.
- 38 (15) Mortuaries.
- 39 ~~(16) Abortion clinics.~~

40 (b) Except as provided in sections 2, 4, and 7.5 of this chapter, this  
41 chapter does not apply to:

- 42 (1) home health agencies; or



(2) hospice services delivered in the home of a hospice patient.  
 SECTION 35. IC 16-41-16-4, AS AMENDED BY P.L.213-2016,  
 SECTION 24, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2017]: Sec. 4. (a) Except as provided in subsections (c) and  
 (d), as used in this chapter, "infectious waste" means waste that  
 epidemiologic evidence indicates is capable of transmitting a  
 dangerous communicable disease (as defined by rule adopted under  
 IC 16-41-2-1).

(b) The term includes the following:

- (1) Pathological wastes.
- (2) Biological cultures and associated biologicals.
- (3) Contaminated sharps.
- (4) Infectious agent stock and associated biologicals.
- (5) Blood and blood products in liquid or semiliquid form.
- (6) Laboratory animal carcasses, body parts, and bedding.
- (7) Wastes (as described under section 8 of this chapter).

(c) "Infectious waste", as the term applies to a:

- (1) home health agency; or
- (2) hospice service delivered in the home of a hospice patient;

includes only contaminated sharps.

(d) The term does not include ~~an aborted fetus or~~ a miscarried fetus.

SECTION 36. IC 16-41-16-5, AS AMENDED BY P.L.213-2016,  
 SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2017]: Sec. 5. As used in this chapter, "pathological waste"  
 includes:

- (1) tissues;
- (2) organs;
- (3) body parts; and
- (4) blood or body fluids in liquid or semiliquid form;

that are removed during surgery, biopsy, or autopsy. The term does not  
 include ~~an aborted fetus or~~ a miscarried fetus.

SECTION 37. IC 16-41-16-7.6, AS ADDED BY P.L.213-2016,  
 SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 JULY 1, 2017]: Sec. 7.6. (a) This section applies to a person or facility  
 possessing ~~either an aborted fetus or~~ a miscarried fetus.

(b) Within ten (10) business days after a miscarriage occurs, ~~or an  
 abortion is performed;~~ a person or facility described in subsection (a)  
 shall:

- (1) conduct the final disposition of ~~a the~~ miscarried fetus ~~or an  
 aborted fetus~~ in the manner required by IC 16-21-11-6; ~~or  
 IC 16-34-3-4;~~ or
- (2) ensure that the miscarried fetus ~~or aborted fetus~~ is preserved



1 until final disposition under IC 16-21-11-6 or IC 16-34-3-4  
 2 occurs.

3 SECTION 38. IC 16-50 IS ADDED TO THE INDIANA CODE AS  
 4 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
 5 2017]:

6 **ARTICLE 50. THE PROTECTION OF LIFE**

7 **Chapter 1. General Assembly Findings**

8 **Sec. 1.** The general assembly finds that human physical life  
 9 begins when a human ovum is fertilized by a human sperm.

10 **Chapter 2. State Interest in Protecting Human Physical Life**

11 **Sec. 1.** Indiana asserts a compelling state interest in protecting  
 12 human physical life from the moment that human physical life  
 13 begins.

14 **Sec. 2.** Indiana's authority to assert its interest in protecting  
 15 human physical life from the moment that human physical life  
 16 begins is drawn from the following:

17 (1) The Tenth Amendment to the Constitution of the United  
 18 States, which provides that all powers not delegated to the  
 19 United States elsewhere in the Constitution are reserved to the  
 20 states or to the people.

21 (2) The Ninth Amendment to the Constitution of the United  
 22 States, which provides that the enumeration of certain rights  
 23 within the Constitution must not be construed to deny or  
 24 disparage other rights retained by the people.

25 (3) The Declaration of Independence, which acknowledges  
 26 that life is endowed to all persons as an inalienable right.

27 (4) The fact that the governments of the United States and  
 28 Indiana were instituted by the consent of the people in 1787  
 29 and 1816, respectively, to secure the inalienable rights  
 30 acknowledged by the Declaration of Independence.

31 **Sec. 3.** Any act, law, treaty, order, rule, or regulation of the  
 32 United States government that fails to protect a person's  
 33 inalienable right to life is null, void, and unenforceable in Indiana.  
 34 The courts of the United States have no jurisdiction to interfere  
 35 with Indiana's interest in protecting human physical life from the  
 36 moment that human physical life begins.

37 **Sec. 4.** It is unlawful for any official, agent, or employee of the  
 38 United States government or an employee of a private entity  
 39 providing services to the United States government to enforce any  
 40 act, law, treaty, order, rule, or regulation of the United States  
 41 government that interferes with Indiana's interest in protecting  
 42 human physical life from the moment that human physical life



1 begins.

2 **Sec. 5. A prosecuting attorney may seek injunctive relief in the**  
 3 **circuit court of the county in which the prosecuting attorney serves**  
 4 **to enjoin any official, agent, or employee of the United States**  
 5 **government or an employee of a private entity providing services**  
 6 **to the United States government from enforcing any act, law,**  
 7 **treaty, order, rule, or regulation of the United States government**  
 8 **that interferes with Indiana's interest in protecting human physical**  
 9 **life from the moment that human physical life begins.**

10 **Chapter 3. Nonseverability**

11 **Sec. 1. The severability provisions of IC 1-1-1-8 do not apply to**  
 12 **the following:**

13 **(1) A bill enacting this article.**

14 **(2) The repeal of a statute relating to abortion or the death or**  
 15 **loss of a fetus in a bill described in subdivision (1).**

16 **(3) The amendment of any statute relating to abortion or the**  
 17 **death or loss of a fetus in a bill described in subdivision (1).**

18 SECTION 39. IC 22-9-1-3, AS AMENDED BY P.L.213-2016,  
 19 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 20 JULY 1, 2017]: Sec. 3. As used in this chapter:

21 (a) "Person" means one (1) or more individuals, partnerships,  
 22 associations, organizations, limited liability companies, corporations,  
 23 labor organizations, cooperatives, legal representatives, trustees,  
 24 trustees in bankruptcy, receivers, and other organized groups of  
 25 persons.

26 (b) "Commission" means the civil rights commission created under  
 27 section 4 of this chapter.

28 (c) "Director" means the director of the civil rights commission.

29 (d) "Deputy director" means the deputy director of the civil rights  
 30 commission.

31 (e) "Commission attorney" means the deputy attorney general, such  
 32 assistants of the attorney general as may be assigned to the  
 33 commission, or such other attorney as may be engaged by the  
 34 commission.

35 (f) "Consent agreement" means a formal agreement entered into in  
 36 lieu of adjudication.

37 (g) "Affirmative action" means those acts that the commission  
 38 determines necessary to assure compliance with the Indiana civil rights  
 39 law.

40 (h) "Employer" means the state or any political or civil subdivision  
 41 thereof and any person employing six (6) or more persons within the  
 42 state, except that the term "employer" does not include:



(1) any nonprofit corporation or association organized exclusively for fraternal or religious purposes;

(2) any school, educational, or charitable religious institution owned or conducted by or affiliated with a church or religious institution; or

(3) any exclusively social club, corporation, or association that is not organized for profit.

(i) "Employee" means any person employed by another for wages or salary. However, the term does not include any individual employed:

(1) by the individual's parents, spouse, or child; or

(2) in the domestic service of any person.

(j) "Labor organization" means any organization that exists for the purpose in whole or in part of collective bargaining or of dealing with employers concerning grievances, terms, or conditions of employment or for other mutual aid or protection in relation to employment.

(k) "Employment agency" means any person undertaking with or without compensation to procure, recruit, refer, or place employees.

(l) "Discriminatory practice" means:

(1) the exclusion of a person from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;

(2) a system that excludes persons from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;

(3) the promotion of racial segregation or separation in any manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry;

**or**

(4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is committed by a covered entity (as defined in IC 22-9-5-4).

~~(5) the performance of an abortion solely because of the race, color, sex, disability, national origin, or ancestry of the fetus; or~~

~~(6) a violation of any of the following statutes protecting the right of conscience regarding abortion:~~

~~(A) IC 16-34-1-4.~~

~~(B) IC 16-34-1-5.~~

~~(C) IC 16-34-1-6.~~

Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment, or the



1 extending of credit (as defined in IC 24-4.5-1-301.5) shall be  
2 considered unlawful unless it is specifically exempted by this chapter.

3 (m) "Public accommodation" means any establishment that caters  
4 or offers its services or facilities or goods to the general public.

5 (n) "Complainant" means:

6 (1) any individual charging on the individual's own behalf to have  
7 been personally aggrieved by a discriminatory practice; or

8 (2) the director or deputy director of the commission charging that  
9 a discriminatory practice was committed against a person (other  
10 than the director or deputy director) or a class of people, in order  
11 to vindicate the public policy of the state (as defined in section 2  
12 of this chapter).

13 (o) "Complaint" means any written grievance that is:

14 (1) sufficiently complete and filed by a complainant with the  
15 commission; or

16 (2) filed by a complainant as a civil action in the circuit or  
17 superior court having jurisdiction in the county in which the  
18 alleged discriminatory practice occurred.

19 The original of any complaint filed under subdivision (1) shall be  
20 signed and verified by the complainant.

21 (p) "Sufficiently complete" refers to a complaint that includes:

22 (1) the full name and address of the complainant;

23 (2) the name and address of the respondent against whom the  
24 complaint is made;

25 (3) the alleged discriminatory practice and a statement of  
26 particulars thereof;

27 (4) the date or dates and places of the alleged discriminatory  
28 practice and if the alleged discriminatory practice is of a  
29 continuing nature the dates between which continuing acts of  
30 discrimination are alleged to have occurred; and

31 (5) a statement as to any other action, civil or criminal, instituted  
32 in any other form based upon the same grievance alleged in the  
33 complaint, together with a statement as to the status or disposition  
34 of the other action.

35 No complaint shall be valid unless filed within one hundred eighty  
36 (180) days from the date of the occurrence of the alleged  
37 discriminatory practice.

38 (q) "Sex" as it applies to segregation or separation in this chapter  
39 applies to all types of employment, education, public accommodations,  
40 and housing. However:

41 (1) it shall not be a discriminatory practice to maintain separate  
42 restrooms;





(2) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and

(3) it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one (1) sex only.

(r) "Disabled" or "disability" means the physical or mental condition of a person that constitutes a substantial disability. In reference to employment under this chapter, "disabled or disability" also means the physical or mental condition of a person that constitutes a substantial disability unrelated to the person's ability to engage in a particular occupation.

(s) "Veteran" means:

- (1) a veteran of the armed forces of the United States;
- (2) a member of the Indiana National Guard; or
- (3) a member of a reserve component.

SECTION 40. IC 23-14-31-39, AS AMENDED BY P.L.213-2016, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 39. (a) Except as provided in IC 16-21-11-6, ~~and IC 16-34-3-4~~, a crematory authority shall not perform the simultaneous cremation of the human remains of more than one (1) individual within the same cremation chamber unless it has obtained the prior written consent of the authorizing agents.

(b) Subsection (a) does not prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the crematory authority from multiple sources, or the use of cremation equipment that contains more than one (1) cremation chamber.

SECTION 41. IC 25-22.5-2-8, AS AMENDED BY P.L.177-2015, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 8. (a) The board shall implement a program to investigate and assess a civil penalty of not more than one thousand dollars (\$1,000) against a physician licensed under this article for the following violations:

- (1) Licensure renewal fraud.



(2) Improper termination of a physician and patient relationship.

(3) Practicing with an expired medical license.

(4) Providing office based anesthesia without the proper accreditation.

(5) Failure to perform duties required for issuing birth or death certificates.

(6) Failure to disclose, or negligent omission of, documentation requested for licensure renewal.

~~(7) Failure to complete or timely transmit a pregnancy termination form under IC 16-34-2-5, with each failure constituting a separate violation.~~

(b) An individual who is investigated by the board and found by the board to have committed a violation specified in subsection (a) may appeal the determination made by the board in accordance with IC 4-21.5.

(c) In accordance with the federal Health Care Quality Improvement Act (42 U.S.C. 11132), the board shall report a disciplinary board action that is subject to reporting to the National Practitioner Data Bank. However, the board may not report board action against a physician for only an administrative penalty described in subsection (a). The board's action concerning disciplinary action or an administrative penalty described in subsection (a) shall be conducted at a hearing that is open to the public.

(d) The physician compliance fund is established to provide funds for administering and enforcing the investigation of violations specified in subsection (a). The fund shall be administered by the Indiana professional licensing agency.

(e) The expenses of administering the physician compliance fund shall be paid from the money in the fund. The fund consists of penalties collected through investigations and assessments by the board concerning violations specified in subsection (a). Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 42. IC 25-36.1-2-1, AS ADDED BY P.L.97-2009, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. As used in this chapter, "health care facility" means the following:

(1) A hospital that is licensed under IC 16-21-2.

(2) An ambulatory outpatient surgical center licensed under IC 16-21-2.

(3) A birthing center licensed under IC 16-21-2.

~~(4) An abortion clinic licensed under IC 16-21-2.~~

SECTION 43. IC 27-8-13.4 IS REPEALED [EFFECTIVE JULY 1,



2017]. (Coverage for Abortion).

SECTION 44. IC 27-8-33 IS REPEALED [EFFECTIVE JULY 1, 2017]. (Health Care Exchanges and Abortion).

SECTION 45. IC 27-13-7-7.5 IS REPEALED [EFFECTIVE JULY 1, 2017]. Sec. 7.5: (a) ~~A health maintenance organization that provides coverage for basic health care services and that is entered into; delivered; amended; or renewed after December 31, 2014; under a group contract or an individual contract may not provide coverage for abortion; except in the following cases:~~

(1) ~~The pregnant woman became pregnant through an act of rape or incest.~~

(2) ~~An abortion is necessary to avert the pregnant woman's death or a substantial and irreversible impairment of a major bodily function of the pregnant woman.~~

(b) ~~A health maintenance organization that enters into a group contract or an individual contract described in subsection (a) may offer coverage for abortion through a rider or an endorsement.~~

SECTION 46. IC 31-39-1-1, AS AMENDED BY P.L.1-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) This chapter applies to all records of the juvenile court except the following:

(1) Records involving an adult charged with a crime or criminal contempt of court.

(2) Records involving a pregnant minor or her physician seeking a waiver of the requirement under IC 35-1-58.5-2.5 (before its repeal) or IC 16-34-2-4 (**before its repeal**) that a physician who performs an abortion on an unemancipated minor first obtain the written consent of the minor's parent or guardian.

(3) Records involving proceedings that pertain to:

(A) paternity issues;

(B) custody issues;

(C) parenting time issues; or

(D) child support issues;

concerning a child born to parents who are not married to each other.

(b) The legal records subject to this chapter include the following:

(1) Chronological case summaries.

(2) Index entries.

(3) Summonses.

(4) Warrants.

(5) Petitions.

(6) Orders.



(7) Motions.

(8) Decrees.

SECTION 47. IC 31-39-2-1, AS AMENDED BY P.L.1-2014, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. (a) This chapter applies to all records of the juvenile court except the following:

(1) Records involving an adult charged with a crime or criminal contempt of court.

(2) Records involving a pregnant minor or her physician seeking a waiver of the requirement under IC 35-1-58.5-2.5 (before its repeal) or IC 16-34-2-4 (**before its repeal**) that a physician who performs an abortion on an unemancipated minor first obtain the written consent of the minor's parent or guardian.

(3) Records involving proceedings that pertain to:

(A) paternity issues;

(B) custody issues;

(C) parenting time issues; or

(D) child support issues;

concerning a child born to parents who are not married to each other.

(b) The legal records subject to this chapter include the following:

(1) Chronological case summaries.

(2) Index summaries.

(3) Summonses.

(4) Warrants.

(5) Petitions.

(6) Orders.

(7) Motions.

(8) Decrees.

SECTION 48. IC 34-23-2-1, AS AMENDED BY P.L.129-2009, SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. ~~(a) This section does not apply to an abortion performed in compliance with:~~

~~(1) IC 16-34; or~~

~~(2) IC 35-1-58.5 (before its repeal);~~

~~(b)~~ (a) As used in this section, "child" means an unmarried individual without dependents who is:

(1) less than twenty (20) years of age; or

(2) less than twenty-three (23) years of age and is enrolled in a postsecondary educational institution or a career and technical education school or program that is not a postsecondary educational program.



The term includes a ~~fetus that has attained viability (as defined in IC 16-18-2-365):~~ **an unborn child.**

~~(e)~~ **(b)** An action may be maintained under this section against the person whose wrongful act or omission caused the injury or death of a child. The action may be maintained by:

(1) the father and mother jointly, or either of them by naming the other parent as a codefendant to answer as to ~~his or her~~ **the parent's** interest;

(2) in case of divorce or dissolution of marriage, the person to whom custody of the child was awarded; and

(3) a guardian, for the injury or death of a protected person.

~~(d)~~ **(c)** In case of death of the person to whom custody of a child was awarded, a personal representative shall be appointed to maintain the action for the injury or death of the child.

~~(e)~~ **(d)** In an action brought by a guardian for an injury to a protected person, the damages inure to the benefit of the protected person.

~~(f)~~ **(e)** In an action to recover for the death of a child, the plaintiff may recover damages:

(1) for the loss of the child's services;

(2) for the loss of the child's love and companionship; and

(3) to pay the expenses of:

(A) health care and hospitalization necessitated by the wrongful act or omission that caused the child's death;

(B) the child's funeral and burial;

(C) the reasonable expense of psychiatric and psychological counseling incurred by a surviving parent or minor sibling of the child that is required because of the death of the child;

(D) uninsured debts of the child, including debts for which a parent is obligated on behalf of the child; and

(E) the administration of the child's estate, including reasonable attorney's fees.

~~(g)~~ **(f)** Damages may be awarded under this section only with respect to the period of time from the death of the child until:

(1) the date that the child would have reached:

(A) twenty (20) years of age; or

(B) twenty-three (23) years of age, if the child was enrolled in a postsecondary educational institution or in a career and technical education school or program that is not a postsecondary educational program; or

(2) the date of the child's last surviving parent's death;

whichever first occurs.

~~(h)~~ **(g)** Damages may be awarded under subsection ~~(f)(2)~~ **(e)(2)** only



with respect to the period of time from the death of the child until the date of the child's last surviving parent's death.

(i) **(h)** Damages awarded under subsection ~~(f)(1), (f)(2), (f)(3)(C), and (f)(3)(D)~~ **(e)(1), (e)(2), (e)(3)(C), and (e)(3)(D)** inure to the benefit of:

(1) the father and mother jointly if both parents had custody of the child;

(2) the custodial parent, or custodial grandparent, and the noncustodial parent of the deceased child as apportioned by the court according to their respective losses; or

(3) a custodial grandparent of the child if the child was not survived by a parent entitled to benefit under this section.

However, a parent or grandparent who abandoned a deceased child while the child was alive is not entitled to any recovery under this chapter.

(j) **(i)** This section does not affect or supersede any other right, remedy, or defense provided by any other law.

SECTION 49. IC 35-31.5-2-132 IS REPEALED [EFFECTIVE JULY 1, 2017]. ~~Sec. 132: "Fetus", for purposes of IC 35-42-1-4, has the meaning set forth in IC 35-42-1-4(a).~~

SECTION 50. IC 35-31.5-2-160, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 160. "Human being" means an individual ~~who has been born and is alive.~~ **having human physical life (as described by IC 16-50-1-1), regardless of whether the individual has been born.**

SECTION 51. IC 35-42-1-0.5 IS REPEALED [EFFECTIVE JULY 1, 2017]. ~~Sec. 0.5: Sections 1, 3, and 4 of this chapter do not apply to an abortion performed in compliance with:~~

~~(1) IC 16-34; or~~

~~(2) IC 35-1-58.5 (before its repeal);~~

SECTION 52. IC 35-42-1-1, AS AMENDED BY P.L.168-2014, SECTION 65, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2017]: Sec. 1. A person who:

(1) knowingly or intentionally kills another human being;

(2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct (under IC 35-42-4-2 before its repeal), kidnapping, rape, robbery, human trafficking, promotion of human trafficking, sexual trafficking of a minor, or carjacking (before its repeal); **or**

(3) kills another human being while committing or attempting to commit:



- 1 (A) dealing in or manufacturing cocaine or a narcotic drug
- 2 (IC 35-48-4-1);
- 3 (B) dealing in or manufacturing methamphetamine
- 4 (IC 35-48-4-1.1);
- 5 (C) dealing in a schedule I, II, or III controlled substance
- 6 (IC 35-48-4-2);
- 7 (D) dealing in a schedule IV controlled substance
- 8 (IC 35-48-4-3); or
- 9 (E) dealing in a schedule V controlled substance; or
- 10 ~~(4) knowingly or intentionally kills a fetus that has attained~~
- 11 ~~viability (as defined in IC 16-18-2-365);~~
- 12 commits murder, a felony.

13 SECTION 53. IC 35-42-1-3, AS AMENDED BY P.L.158-2013,  
 14 SECTION 413, IS AMENDED TO READ AS FOLLOWS  
 15 [EFFECTIVE JULY 1, 2017]: Sec. 3. (a) A person who knowingly or  
 16 intentionally

- 17 ~~(1)~~ kills another human being or
- 18 ~~(2) kills a fetus that has attained viability (as defined in~~
- 19 ~~IC 16-18-2-365);~~

20 while acting under sudden heat commits voluntary manslaughter, a  
 21 Level 2 felony.

22 (b) The existence of sudden heat is a mitigating factor that reduces  
 23 what otherwise would be murder under section 1(1) of this chapter to  
 24 voluntary manslaughter.

25 SECTION 54. IC 35-42-1-4, AS AMENDED BY P.L.65-2016,  
 26 SECTION 31, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27 JULY 1, 2017]: Sec. 4. (a) ~~As used in this section, "fetus" means a~~  
 28 ~~fetus that has attained viability (as defined in IC 16-18-2-365);~~

29 ~~(b)~~ A person who kills another human being while committing or  
 30 attempting to commit:

- 31 (1) a Level 5 or Level 6 felony that inherently poses a risk of
- 32 serious bodily injury;
- 33 (2) a Class A misdemeanor that inherently poses a risk of serious
- 34 bodily injury; or
- 35 (3) battery;

36 commits involuntary manslaughter, a Level 5 felony.

37 ~~(c) A person who kills a fetus while committing or attempting to~~  
 38 ~~commit:~~

- 39 ~~(1) a Level 5 or Level 6 felony that inherently poses a risk of~~
- 40 ~~serious bodily injury;~~
- 41 ~~(2) a Class A misdemeanor that inherently poses a risk of serious~~
- 42 ~~bodily injury;~~



1           (3) a battery offense included in IC 35-42-2; or  
 2           (4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a  
 3           vehicle while intoxicated);  
 4           commits involuntary manslaughter, a Level 5 felony.

5           SECTION 55. IC 35-42-1-6 IS REPEALED [EFFECTIVE JULY 1,  
 6           2017]. Sec. 6. A person who knowingly or intentionally terminates a  
 7           human pregnancy with an intention other than to produce a live birth  
 8           or to remove a dead fetus commits feticide, a Level 3 felony. This  
 9           section does not apply to an abortion performed in compliance with:

- 10           (1) IC 16-34; or  
 11           (2) IC 35-1-58.5 (before its repeal).

12           SECTION 56. IC 35-42-2-1.5, AS AMENDED BY P.L.158-2013,  
 13           SECTION 422, IS AMENDED TO READ AS FOLLOWS  
 14           [EFFECTIVE JULY 1, 2017]: Sec. 1.5. A person who knowingly or  
 15           intentionally inflicts injury on a person that creates a substantial risk of  
 16           death or causes:

- 17           (1) serious permanent disfigurement; or  
 18           (2) protracted loss or impairment of the function of a bodily  
 19           member or organ; or  
 20           (3) the loss of a fetus;

21           commits aggravated battery, a Level 3 felony. However, the offense is  
 22           a Level 1 felony if it results in the death of a child less than fourteen  
 23           (14) years of age and is committed by a person at least eighteen (18)  
 24           years of age.

25           SECTION 57. IC 35-50-2-9, AS AMENDED BY P.L.65-2016,  
 26           SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 27           JULY 1, 2017]: Sec. 9. (a) The state may seek either a death sentence  
 28           or a sentence of life imprisonment without parole for murder by  
 29           alleging, on a page separate from the rest of the charging instrument,  
 30           the existence of at least one (1) of the aggravating circumstances listed  
 31           in subsection (b). In the sentencing hearing after a person is convicted  
 32           of murder, the state must prove beyond a reasonable doubt the  
 33           existence of at least one (1) of the aggravating circumstances alleged.  
 34           However, the state may not proceed against a defendant under this  
 35           section if a court determines at a pretrial hearing under IC 35-36-9 that  
 36           the defendant is an individual with an intellectual disability.

37           (b) The aggravating circumstances are as follows:

- 38           (1) The defendant committed the murder by intentionally killing  
 39           the victim while committing or attempting to commit any of the  
 40           following:  
 41           (A) Arson (IC 35-43-1-1).  
 42           (B) Burglary (IC 35-43-2-1).





- 1 (C) Child molesting (IC 35-42-4-3).
- 2 (D) Criminal deviate conduct (IC 35-42-4-2) (before its
- 3 repeal).
- 4 (E) Kidnapping (IC 35-42-3-2).
- 5 (F) Rape (IC 35-42-4-1).
- 6 (G) Robbery (IC 35-42-5-1).
- 7 (H) Carjacking (IC 35-42-5-2) (before its repeal).
- 8 (I) Criminal organization activity (IC 35-45-9-3).
- 9 (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- 10 (K) Criminal confinement (IC 35-42-3-3).
- 11 (2) The defendant committed the murder by the unlawful
- 12 detonation of an explosive with intent to injure a person or
- 13 damage property.
- 14 (3) The defendant committed the murder by lying in wait.
- 15 (4) The defendant who committed the murder was hired to kill.
- 16 (5) The defendant committed the murder by hiring another person
- 17 to kill.
- 18 (6) The victim of the murder was a corrections employee,
- 19 probation officer, parole officer, community corrections worker,
- 20 home detention officer, fireman, judge, or law enforcement
- 21 officer, and either:
- 22 (A) the victim was acting in the course of duty; or
- 23 (B) the murder was motivated by an act the victim performed
- 24 while acting in the course of duty.
- 25 (7) The defendant has been convicted of another murder.
- 26 (8) The defendant has committed another murder, at any time,
- 27 regardless of whether the defendant has been convicted of that
- 28 other murder.
- 29 (9) The defendant was:
- 30 (A) under the custody of the department of correction;
- 31 (B) under the custody of a county sheriff;
- 32 (C) on probation after receiving a sentence for the commission
- 33 of a felony; or
- 34 (D) on parole;
- 35 at the time the murder was committed.
- 36 (10) The defendant dismembered the victim.
- 37 (11) The defendant:
- 38 (A) burned, mutilated, or tortured the victim; or
- 39 (B) decapitated or attempted to decapitate the victim;
- 40 while the victim was alive.
- 41 (12) The victim of the murder was less than twelve (12) years of
- 42 age.



(13) The victim was a victim of any of the following offenses for which the defendant was convicted:

(A) A battery offense included in IC 35-42-2 committed before July 1, 2014, as a Class D felony or as a Class C felony, or a battery offense included in IC 35-42-2 committed after June 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4 felony, or a Level 3 felony.

(B) Kidnapping (IC 35-42-3-2).

(C) Criminal confinement (IC 35-42-3-3).

(D) A sex crime under IC 35-42-4.

(14) The victim of the murder was listed by the state or known by the defendant to be a witness against the defendant and the defendant committed the murder with the intent to prevent the person from testifying.

(15) The defendant committed the murder by intentionally discharging a firearm (as defined in IC 35-47-1-5):

(A) into an inhabited dwelling; or

(B) from a vehicle.

(16) The victim of the murder was pregnant and the murder resulted in the intentional killing of ~~a fetus that has attained viability (as defined in IC 16-18-2-365)~~; **the victim's unborn child.**

(17) The defendant knowingly or intentionally:

(A) committed the murder:

(i) in a building primarily used for an educational purpose;

(ii) on school property; and

(iii) when students are present; or

(B) committed the murder:

(i) in a building or other structure owned or rented by a state educational institution or any other public or private postsecondary educational institution and primarily used for an educational purpose; and

(ii) at a time when classes are in session.

(18) The murder is committed:

(A) in a building that is primarily used for religious worship; and

(B) at a time when persons are present for religious worship or education.

(c) The mitigating circumstances that may be considered under this section are as follows:

(1) The defendant has no significant history of prior criminal conduct.



(2) The defendant was under the influence of extreme mental or emotional disturbance when the murder was committed.

(3) The victim was a participant in or consented to the defendant's conduct.

(4) The defendant was an accomplice in a murder committed by another person, and the defendant's participation was relatively minor.

(5) The defendant acted under the substantial domination of another person.

(6) The defendant's capacity to appreciate the criminality of the defendant's conduct or to conform that conduct to the requirements of law was substantially impaired as a result of mental disease or defect or of intoxication.

(7) The defendant was less than eighteen (18) years of age at the time the murder was committed.

(8) Any other circumstances appropriate for consideration.

(d) If the defendant was convicted of murder in a jury trial, the jury shall reconvene for the sentencing hearing. If the trial was to the court, or the judgment was entered on a guilty plea, the court alone shall conduct the sentencing hearing. The jury or the court may consider all the evidence introduced at the trial stage of the proceedings, together with new evidence presented at the sentencing hearing. The court shall instruct the jury concerning the statutory penalties for murder and any other offenses for which the defendant was convicted, the potential for consecutive or concurrent sentencing, and the availability of educational credit, good time credit, and clemency. The court shall instruct the jury that, in order for the jury to recommend to the court that the death penalty or life imprisonment without parole should be imposed, the jury must find at least one (1) aggravating circumstance beyond a reasonable doubt as described in subsection (l) and shall provide a special verdict form for each aggravating circumstance alleged. The defendant may present any additional evidence relevant to:

(1) the aggravating circumstances alleged; or

(2) any of the mitigating circumstances listed in subsection (c).

(e) For a defendant sentenced after June 30, 2002, except as provided by IC 35-36-9, if the hearing is by jury, the jury shall recommend to the court whether the death penalty or life imprisonment without parole, or neither, should be imposed. The jury may recommend:

(1) the death penalty; or

(2) life imprisonment without parole;



only if it makes the findings described in subsection (l). If the jury reaches a sentencing recommendation, the court shall sentence the defendant accordingly. After a court pronounces sentence, a representative of the victim's family and friends may present a statement regarding the impact of the crime on family and friends. The impact statement may be submitted in writing or given orally by the representative. The statement shall be given in the presence of the defendant.

(f) If a jury is unable to agree on a sentence recommendation after reasonable deliberations, the court shall discharge the jury and proceed as if the hearing had been to the court alone.

(g) If the hearing is to the court alone, except as provided by IC 35-36-9, the court shall:

(1) sentence the defendant to death; or

(2) impose a term of life imprisonment without parole; only if it makes the findings described in subsection (l).

(h) If a court sentences a defendant to death, the court shall order the defendant's execution to be carried out not later than one (1) year and one (1) day after the date the defendant was convicted. The supreme court has exclusive jurisdiction to stay the execution of a death sentence. If the supreme court stays the execution of a death sentence, the supreme court shall order a new date for the defendant's execution.

(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:



- 1 (A) Constitution of the State of Indiana; or
  - 2 (B) Constitution of the United States;
  - 3 (2) sentencing court was without jurisdiction to impose a
  - 4 sentence; and
  - 5 (3) sentence:
  - 6 (A) exceeds the maximum sentence authorized by law; or
  - 7 (B) is otherwise erroneous.
- 8 If the supreme court cannot complete its review by the date set by the
- 9 sentencing court for the defendant's execution under subsection (h), the
- 10 supreme court shall stay the execution of the death sentence and set a
- 11 new date to carry out the defendant's execution.
- 12 (k) A person who has been sentenced to death and who has
- 13 completed state post-conviction review proceedings may file a written
- 14 petition with the supreme court seeking to present new evidence
- 15 challenging the person's guilt or the appropriateness of the death
- 16 sentence if the person serves notice on the attorney general. The
- 17 supreme court shall determine, with or without a hearing, whether the
- 18 person has presented previously undiscovered evidence that
- 19 undermines confidence in the conviction or the death sentence. If
- 20 necessary, the supreme court may remand the case to the trial court for
- 21 an evidentiary hearing to consider the new evidence and its effect on
- 22 the person's conviction and death sentence. The supreme court may not
- 23 make a determination in the person's favor nor make a decision to
- 24 remand the case to the trial court for an evidentiary hearing without
- 25 first providing the attorney general with an opportunity to be heard on
- 26 the matter.
- 27 (l) Before a sentence may be imposed under this section, the jury,
- 28 in a proceeding under subsection (e), or the court, in a proceeding
- 29 under subsection (g), must find that:
- 30 (1) the state has proved beyond a reasonable doubt that at least
- 31 one (1) of the aggravating circumstances listed in subsection (b)
- 32 exists; and
- 33 (2) any mitigating circumstances that exist are outweighed by the
- 34 aggravating circumstance or circumstances.
- 35 SECTION 58. IC 35-52-16-21 IS REPEALED [EFFECTIVE JULY
- 36 1, 2017]. ~~Sec. 21. IC 16-34-2-5 defines a crime concerning abortion.~~
- 37 SECTION 59. IC 35-52-16-22 IS REPEALED [EFFECTIVE JULY
- 38 1, 2017]. ~~Sec. 22. IC 16-34-2-6 defines crimes concerning abortion.~~
- 39 SECTION 60. IC 35-52-16-23 IS REPEALED [EFFECTIVE JULY
- 40 1, 2017]. ~~Sec. 23. IC 16-34-2-7 defines a crime concerning abortion.~~

